

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

WARNER MUSIC GROUP CORP., *et al.*,

Plaintiffs,

v.

MEGAUPLOAD LIMITED, *et al.*,

Defendants.

No. 1:14CV374
(LO / IDD)

**MEMORANDUM OF LAW IN RESPONSE TO
MEGAUPLOAD LIMITED’S MOTION FOR A STAY**

Plaintiffs Warner Music Group Corp., UMG Recordings, Inc., Sony Music Entertainment, and Capitol Records, LLC (together, “Plaintiffs”) hereby respond to Defendant Megaupload Limited’s (“Megaupload’s”) motion for a continuation of the stay of this case, which is set to expire on August 1, 2014 (Dkt. No. 27). This Court has scheduled Megaupload’s motion for hearing on July 25, 2014 (Dkt. No. 33).

Although Plaintiffs disagree with many of the statements and reasons set forth in Megaupload’s motion for a stay (Dkt. No. 31) and the brief in support thereof (Dkt. No. 32), Plaintiffs do not oppose a time-limited continuation of the stay, with the following conditions:

1. The continuation of the stay should not extend beyond six months—to February 1, 2015—rather than the eight months that Megaupload has requested. As the Court is aware, Megaupload initially sought a stay of this case on the same terms and conditions as the stay of a related civil action, *Microhits, Inc. v. Megaupload, Ltd.*, No. 1:12cv327-LO (E.D. Va., filed Mar. 21, 2012) (the “*Microhits* Action”). *See* Motion of Defendant Megaupload Ltd. for a Stay

Pending a Parallel Criminal Prosecution, at 2 (May 10, 2014) (Dkt. No. 13). This Court has extended the “limited” stay of the *Microhits* Action several times since June 2012, each time for a six-month term. *See* Dkt. No. 36 at 2 (*Microhits* Action Order denying Plaintiffs’ Motion for Reconsideration (June 15, 2012)).

Meanwhile, more than 2½ years have passed since the initiation of the pending criminal action against Defendants, *United States v. Kim Dotcom, et al.*, No. 1:12cr00003-LO (E.D. Va. filed Jan. 5, 2012) (“*Criminal Action*”). Given this significant passage of time and the pendency of multiple proceedings in New Zealand and Hong Kong that could affect Plaintiffs’ rights in the current action, *see, e.g.*, Plaintiffs’ Memorandum of Law in Response to Megaupload Limited’s Motion for a Stay, May 27, 2014 (Dkt. No. 21), the equities favor limiting the extension of the current stay to no more than six months—until no later than February 1, 2015—as has been this Court’s practice in the *Microhits* Action to date.

2. Any continuation of the stay should be subject to the same conditions as were imposed on the initial stay in this case, including (without limitation) that “Plaintiffs may institute and pursue any action in the United States or a foreign jurisdiction to preserve Defendants’ assets in the event that such action becomes necessary.” Order on Motion to Stay (E.D. Va. June 10, 2014) (Dkt. No. 27). As Megaupload’s motion seeks an extension of the stay subject to these same conditions, Plaintiffs do not oppose the motion in this respect, and request

only that any extension be time-limited to February 1, 2015 rather than for the eight months that Megaupload has requested.

Dated: July 23, 2014

Respectfully submitted,

/s/ Eric C. Wiener

Thomas G. Hentoff (*pro hac vice*)
Stanley E. Fisher, VA Bar Number 68143
Eric C. Wiener, VA Bar Number 79206
Gabriel A. Cohen (*pro hac vice*)
Nicholas G. Gamse (*pro hac vice*)
WILLIAMS & CONNOLLY LLP
725 12th Street, N.W.
Washington, D.C. 20005
(202) 434-5000
(202) 434-5029 (facsimile)
thentoff@wc.com
ewiener@wc.com
gcohen@wc.com
ngamse@wc.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that July 23, 2014, I filed the foregoing Memorandum of Law in Response to Megaupload Limited's Motion for a Stay with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to the following:

Craig Crandall Reilly
Law Office of Craig C. Reilly
111 Oronoco Street
Alexandria, VA 22314
craig.reilly@ccreillylaw.com

*Counsel for Megaupload Limited
and Kim Dotcom*

/s/ Eric C. Wiener
Eric C. Wiener
VA Bar Number 79206
WILLIAMS & CONNOLLY LLP
725 12th Street, N.W.
Washington, D.C. 20005
(202) 434-5000
(202) 434-5029 (facsimile)
ewiener@wc.com